

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No.: 15-CR-4268 JB

ANGEL DE LEON, et al.,

Defendants.

**OPPOSED MOTION TO SET ARRAIGNMENT ON SUPERSEDING INDICTMENT IN
ALBUQUERQUE, NM FOR ALBUQUERQUE ATTORNEYS
(FOR CONSIDERATION BY THE U.S. MAGISTRATE JUDGE)**

COMES NOW, defendant Christopher Garcia, by and through co-counsel Amy Sirignano, of the Law Office of Amy Sirignano, PC, and Christopher W. Adams, of the Law Office of Christopher W. Adams, PC, and joined by defendants Joe Lawrence Gallegos (attorney Brock Benjamin), Billy Garcia, (attorneys Bob Cooper and Jim Castle) Arturo Arnulfo Garcia (Billy Blackburn and Scott Davidson), Anthony Ray Baca, (attorneys Marc Lowry and Teresa Duncan), Carlos Herrera (attorneys Michael V. Davis and Carey Corlew Bhala), Rudy Perez (attorneys Justine Fox-Young and Ryan J. Villa), Santos Gonzalez (attorney Erlinda O. Johnson), Shauna Gutierrez (Angela Arellanes) and jointly move this Court to set the Arraignment on the Superseding Indictment (Docs. 949, 950) from Las Cruces, New Mexico to Albuquerque, New Mexico, Wednesday morning, March 15, 2017, before U.S. Magistrate Judge Lynch at 9:30 a.m.

Counsel for Shauna Gutierrez, (attorney Angela Arellanes) separately requests that Ms. Gutierrez's arraignment be moved to Albuquerque, New Mexico on the morning of March 16, 2017, at 9:30 a.m., before the U.S Magistrate Judge in Albuquerque, New Mexico. Counsel for Billy Garcia (Bob Cooper and Jim Castle) also respectfully request that standby-counsel appear

for their client in Albuquerque, New Mexico on the morning of March 15, 2017 in Albuquerque, New Mexico at 9:30 a.m. Should standby counsel not be adequate in Albuquerque, New Mexico, at that time, counsel for Mr. Billy Garcia request that the arraignment for their client be continued to the week of March 20, 2017 so CJA counsel can appear with their client.

Defendants Edward Troup, (through counsel Cori Harbor-Valdez and Patrick J. Burke), Allen Patterson, (counsel Jeffrey C. Lahan), Christopher Chavez, (counsel Orlando Mondragon), Javier Alonso (Noel Orquiz and Nathan D. Chambers), Mario Rodriguez, (counsel Santiago Hernandez and Steven M. Potolsky), Mauricio Varela (Mary Stillenger), Daniel Sanchez, (counsel Amy Jacks and Richard Jewkes), Andrew Gallegos (Donavon A. Roberts) do not oppose this motion, and all request to maintain the March 15, 2017 at 1:30 p.m. arraignment in Las Cruces before U.S. Magistrate Judge Wormuth.

Counsel for Eugene Martinez (attorney Doug Couleur), Conrad Villegas (BJ Crowe) and Brandy Rodriguez (Alfred Creecy) did not provide a position on this motion.

The government opposes this motion. In support thereof, defendants state the following:

1. In this case, thirty (30) defendants were charged by way of a Superseding Indictment with violations of: Counts 1, 2, 3, 5, and 7: 18 U.S.C. § 1959(a)(1), Violent Crimes in Aid of Racketeering (Murder) and 18 U.S.C. 2, Aiding and Abetting; Counts 4, 6, 9, 10, and 14: 18 U.S.C. § 1959(a)(5), Violent Crimes in Aid of Racketeering (Conspiracy to Murder); Count 8: 18 U.S.C. § 1959(a)(6), Violent Crimes in Aid of Racketeering (Conspiracy to Commit Assault Resulting in Serious Bodily Injury); Count 11: 18 U.S.C. §§ 922(g)(1) and 924(a)(2), Felon in Possession of a Firearm; County 12: 18 U.S.C. § 924(c): Using and Carrying a Firearm During and in Relation to a Crime of Violence; Count 13: 18 U.S.C. § 1959(a)(3): Violent Crimes in Aid of Racketeering (Assault with a Dangerous Weapon); 18 U.S.C. § 2: Aiding and Abetting; Count

15: 18 U.S.C. § 1959(a)(3) and 18 U.S.C. § 1959(a)(5): Violent Crimes in Aid of Racketeering (Attempted Murder, Assault Resulting in Serious Bodily Injury and Assault with Dangerous Weapon); 18 U.S.C. § 2: Aiding and Abetting. (Doc. 368)

2. On March 9, 2017, a Second Superseding Indictment was filed in this case (Doc. 949). The second superseding indictment charges twenty-two (22) defendants with the following alleged violations: Counts 1, 2, 3, 5, 7: 18 U.S.C. § 1959(a)(1), Violent Crimes in Aid of Racketeering (Murder) and 18 U.S.C. 2, Aiding and Abetting; Counts 4, 6, 9, 10, and 14: 18 U.S.C. § 1959(a)(5), Violent Crimes in Aid of Racketeering (Conspiracy to Murder); Count 8: 18 U.S.C. § 1959(a)(6), Violent Crimes in Aid of Racketeering (Conspiracy to Commit Assault Resulting in Serious Bodily Injury); Count 11: 18 U.S.C. §§ 922(g)(1) and 924(a)(2), Felon in Possession of a Firearm; County 12: 18 U.S.C. § 924(c): Using and Carrying a Firearm During and in Relation to a Crime of Violence; Count 13: 18 U.S.C. § 1959(a)(3): Violent Crimes in Aid of Racketeering (Assault with a Dangerous Weapon); 18 U.S.C. § 2: Aiding and Abetting; Count 15: 18 U.S.C. § 1959(a)(3) and 18 U.S.C. § 1959(a)(5): Violent Crimes in Aid of Racketeering (Attempted Murder, Assault Resulting in Serious Bodily Injury and Assault with Dangerous Weapon); 18 U.S.C. § 2: Aiding and Abetting, and Count 16: 18 U.S.C § 1512: Witness Tampering; 18 U.S.C § 2: Aiding and Abetting. (Doc. 949).

3. The United States also obtained a separate superseding indictment against defendant Chris Garcia in 15-CR-4275 (Garcia indictment) (Docs. 2, 49, 15-CR-4275), who is a defendant in this matter and in the 16-CR-4268 case.

4. On March 10, 2017, the Court noticed an arraignment hearing for the 15-CR-4268 defendants on Wednesday, March 15, 2017 at 1:30 PM in Las Cruces, NM - 340 Sierra Blanca Courtroom (North Tower) before Magistrate Judge Gregory B. Wormuth (Doc. 950).

5. The Court continued the arraignments of the moving defendants in the related case, 16-CR-1613 (Doc. 382; 16-CR-1613), except for Anthony Ray Baca. Both related indictments allege defendants are members or affiliates of the Sindicato de Nuevo Mexico (“SNM”) prison gang, which the government alleges engaged in racketeering and committed violent crimes in aid thereof.

6. While all the parties understand, know, and respect that these cases are Las Cruces, New Mexico cases. The parties and defendants are also aware that upcoming motions hearings and trial will be scheduled in Las Cruces, New Mexico. However, Albuquerque and counsel for the joint movants respectfully and graciously ask the Court to allow the Albuquerque lawyers to hold the ten-minute arraignments before an Albuquerque U.S. Magistrate Judge. Most attorneys would prefer a Wednesday, March 15, 2017 setting at 9:30 a.m. before U.S. Magistrate William P. Lynch.

7. The majority of the clients have already been arraigned on the earlier indictment (Doc. 368). The only new defendant in this case is Brandy Rodriguez (Doc. 368). All other defendants have been previously detained and are in the custody of the U.S. Marshals Service, so detention will not be an issue for all defendants other than Ms. Rodriguez.

8. In support of this request, the Court should not only consider counsels’ schedules, but also the financial consequences of holding a ten-minute arraignment hearing for Albuquerque attorneys in Las Cruces, New Mexico. The computation is as follows: approximately 8.5 hours (3.5 hours each way from Albuquerque driving to Las Cruces x \$129.00/hr. = \$1,096.50 per attorney, for at least 15 attorneys (Amy Sirignano and Christopher Adams for Christopher Garcia; Brock Benjamin for Joe Gallegos, Bob Cooper and Jim Castle for Billy Garcia; Billy Blackburn and Scott Davidson for Arturo Arnofo Garcia; Marc Lowry and Teri Duncan for

Anthony Ray Baca; Michael Davis and Carey Bahala for Carlos Herrera; Ryan Villa and Justine Fox-Young; Erlinda Johnson for Santos Gonzalez; and Angela Arrellanes for Shauna Gutierrez.

9. For approximately 15 Criminal Justice Act (CJA) attorneys billing approximately 8.5 hours for a ten-minute arraignment in Las Cruces, New Mexico will cost the CJA, 18 U.S.C. § 3006A, approximately \$16,447.50. The Court must also consider the additional cost of mileage, and per diem for each attorney (when billing over 8.0 hours). Lastly, the U.S. Marshals Service must transport the defendants to Las Cruces, New Mexico (depending on where they are currently housed). For example, Mr. Christopher Garcia is housed in the Santa Fe County Adult Detention Center, while other defendants are at the Torrance County Detention Center, the Dona Ana County Detention Center, and the Otero County Detention Center.

10. The purpose of the CJA Act is to provide counsel to those who cannot afford counsel. 18 U.S.C. § 3006A. This Las Cruces arraignment could cost taxpayers over \$16,000.00 for a ten-minute arraignment. If a cost comparison is done for these approximate 15 attorneys with an arraignment setting in Albuquerque, New Mexico, the attorneys would bill the CJA Act for approximately 1.0 hours, local mileage, and no per diem, or approximately \$1,935.00.

11. The defense has made inquiry with the parties concerning this motion. The government is opposed moving the Arraignments to Albuquerque. The following defendants join the motion: Joe Lawrence Gallegos, Billy Garcia, Arturo Arnulfo Garcia, Anthony Ray Baca, Carlos Herrera, Rudy Perez, Santos Gonzalez, and Shauna Gutierrez, by their respective counsel, and jointly move this Court to set the Arraignment on the Superseding Indictment in Albuquerque.

12. Counsel for Edward Troup, Allen Patterson, Christopher Chavez, Javier Alonzo, Mario Rodriguez, Mauricio Varela, Daniel Sanchez, Andrew Gallegos do not oppose this

motion, and request to maintain the March 15, 2017 at 1:30 p.m. arraignment in Las Cruces before U.S. Magistrate Judge Wormuth.

For the foregoing reasons, the joint defendants and their respective counsel respectfully request that the Court enter an Order setting the March 15, 2017 arraignment on the superseding indictment in Albuquerque, New Mexico, to the morning on March 15, 2017 at 9:30 a.m. before U.S. Magistrate Judge William P. Lynch, or another time in Albuquerque, New Mexico convenient for the Court.

Respectfully submitted,

/s

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was sent via the Court's CM/ECF system to opposing counsel, AUSAs Maria Armijo, Randy Castellano, and Matthew Beck this 13th day of March 2017.

/s/
Amy Sirignano, Esq.